LOS ANGELES COUNTY - SHERIFF'S DEPARTMENT

DEPUTY INVOLVED

SHOOTER

EMPLOYEE'S NAME					
BATANERO, Daniel					

RANK	EMPLOYEE NO.	UNIT AND DIVISION / REGION OF ASSIGNMENT
Deputy	[redacted]	East Los Angeles Station, FOR I

SEX	RACE	HEIGHT	WEIGHT	DATE OF BIRTH	AGE
Male	Hispanic	5'07"	160	[redacted]	33

DUTY STATUS	HIRE DATE
On duty	06/13/84

UNIFORM	RAID JACKET	PLAIN CLOTHES	VEST
Yes	N/A	N/A	Yes

INJURED	DECEASED	CORONER'S CASE NO.
No	M/A	N/A

DESCRIPTION OF INJURIES
N/A

WAS THE DEPUTY IMMEDIATELY REMOVED FROM THE SCENE? YES [X] NO [ ]

WAS THE DEPUTY SEQUESTERED PRIOR TO THE INTERVIEW? YES [X] NO [ ]
WHERE? East Los Angeles Station
SUPERVISED BY: Watch Sergeant

WEAPON USED

TYPE	AUTHORIZED
Beretta, Model 92F BER[redacted]Z	Yes

AMMUNITION TYPE	AUTHORIZED
Issued	Yes

RANGE QUALIFICATION (LAST DATE)	NO. OF ROUNDS FIRED BY DEPUTY	NO. OF HITS
[redacted]	One (1)	One (1)

DEPUTY'S TOXICOLOGY

UNDER THE INFLUENCE	TEST FOR CAUSE ORDERED	ORDERED BY
No	No	N/A

TRAINING INFORMATION

LASER VILLAGE TRAINING (LAST DATE)	PRACTICAL POLICE COURSE (LAST DATE)
[redacted]	[redacted]



DEPUTY INVOLVED
Continued



ASSIGNMENT HISTORY

DATE	UNIT OF ASSIGNMENT	RANK
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
11/6/88-Present	East Los Angeles Station	Deputy

PRIOR SHOOTING INCIDENTS (ALL KNOWN INCIDENTS WHERE DEPUTY HAS DISCHARGED A WEAPON INCLUDING ACCIDENTAL DISCHARGES AND SHOTS FIRED AT ANIMALS OR HUMANS)

FILE	DATE	TYPE
[redacted]		

LAST NAME, EMP#

LOS ANGE--ES COUNTY - SHERIFF'S DE-ARTMENT

SUSPECT/SUBJECT

LAST NAME	FIRST NAME	M/I
Gonzales	Frank	D.

ADDRESS
[redacted]

SEX:	RACE	HEIGHT	WEIGHT	D.O.B.	AGE	DECEASED
M	Hispanic	5'9"	200 lbs	02/09/55	40	No

INJURED	DESCRIPTION OF INJURIES
Yes	Gunshot wound to right arm.

SUSPECT'S TOXICOLOGY

UNDER THE INFLUENCE
Yes

TYPE OF SUBSTANCE	LAB TEST CONDUCTED
Alcohol	No

ARMED	TYPE OF WEAPON
Yes	.25 Cal Raven semi automatic

NUMBER OF SHOTS FIRED BY SUSPECT	NUMBER OF HITS
None	None

SUSPECT VEHICLE
None

CRIMINAL HISTORY (ATTACH COPY OF RAPS)
See EXHIBIT (M)

SUMMARY OF INCIDENT
See incident summary

LOS ANGELES COUNTY - SHERIFF'S DEPARTMENT

ON SCENE CHECK LIST

HANDLING UNIT	OFFICER IN CHARGE
East Los Angeles, 24/PM's	Lt. Castro
DIAGRAM LOCATION	**PHOTOS OF LOCATION**
Completed	Crime Lab

NOTE ALL VEHICLES INVOLVED IN INCIDENT

LICENSE #	DESCRIPTION
	N/A

LOCATION OF ANY WEAPONS
Trash can, alcove area of 4560 Ceasar Chavez Avenue

LOCATION OF ANY BODIES
N/A

LOCATION OF ANY BLOOD
Documented by Crime Lab

COMPLETE WITNESS LIST
Completed

WAS THE DEPUTY IMMEDIATELY REMOVED FROM THE SCENE? YES [X] NO [ ]

WAS THE DEPUTY SEQUESTERED PRIOR TO THE INTERVIEW? YES [X] NO [ ]
WHERE? East Los Angeles Station
SUPERVISED BY: Watch Sergeant

VIDEO TAPE OF SCENE
No

IN SERVICE SHEETS
Yes

LOS ANGELES COUNTY - SHERIFF'S DEPARTMENT

CASE COMPLETION CHECK LIST

RECORDED RADIO MESSAGES	Yes
MDT MESSAGES	Yes
STATION LOG PRINT OUT	Yes
CAR LOGS	Yes
PHONE CALL RECORDINGS PERTAINING TO CASE	N/A
PRINTS FROM SCENE	Crime Lab
GSR TEST	Unknown
BLOOD SPATTER EXAM AND ANALYSIS	Crime Lab
ALL REPORTS AND DOCUMENTS FROM STATION / UNIT	Yes
STATION / UNIT TRAINING RECORDS	Yes
ACADEMY TRAINING RECORDS	Yes
TRAINING RECORDS FOR EQUIPMENT USED	Yes
SUSPECT PERSONAL HISTORY INFORMATION	Yes

INCIDENT SUMMARY

FILE NUMBER: S009596

On Saturday, October 7, 1995, Sergeants Ken Leffler and Mike Dunkle of the Internal Affairs Bureau responded to the intersection of Cesar Chavez Avenue and McDonnell Avenue in the unincorporated area of East Los Angeles regarding a Deputy-involved shooting.

Homicide investigators Donald Garcia and Judith Gisson responded to the scene as well Deputy Jon Rhodes of the Training Bureau. The Internal Affairs Investigators were briefed by Lieutenant William Sieber.

The summary of this incident is based on information obtained from reports and memoranda contained in this packet, witness and suspect interviews, as well as audio recordings and Mobile Digital data received from the Sheriff's Communications Center (SCC). (Refer to EXHIBITS A & B). This report is preliminary and does not contain an interview of the involved deputy.

The shooting occurred on the south sidewalk of Cesar Chavez Avenue, in a predominately business district, near the entrance of a medical office located at 4560 Cesar Chavez Avenue. The site of the shooting is approximately 44 feet west of the west curbline of McDonnell Avenue. (Refer to EXHIBITS C, D, E & F).

At approximately 1995 hours on Saturday, October 7, 1995, Deputies Daniel BATANERO (passenger) and Joseph RAMIREZ (driver) East Los Angeles Station unit #23/A, were traveling eastbound on Cesar Chavez Avenue when they observed two male Hispanics, appearing to be "gang members," standing near a public telephone located on the southwest corner of Cesar Chavez Avenue and McDonnell Avenue.

One of the males, who was facing in a westerly direction, appeared to be talking on the telephone, while the other, Suspect Frank Gonzales, was standing six to eight feet behind him. Deputy Ramirez initially stopped the radio car on Cesar Chavez Avenue while he and Deputy Batanero sized up the two individuals.

Deputy Ramirez said that as soon as he stopped the car, Suspect Gonzales became extremely apprehensive and began to look and move around nervously, as if preparing to run. Ramirez said he slowly turned right (south) onto McDonnell Avenue and stopped adjacent to the public telephone, approximately 20 feet south. (Refer to EXHIBITS C & G).

Deputy Ramirez said that as he was making the turn onto McDonnell Avenue, Deputy Batanero illuminated Suspect Gonzales with the spotlight on his side of the car. Ramirez said that when Gonzales, who was now facing west, was illuminated with the spotlight, he observed him (Gonzales) place, what appeared to be a small blue steel handgun, in his left jacket pocket with his left hand. He advised Batanero of the gun and the two of them exited the car with their guns drawn. As the deputies exited their car, Suspect Gonzales began slowly walking away westbound with both hands in his jacket pockets.

Deputy Ramirez said, that because he had to walk around the radio car, he was about eight feet behind Batanero, who was five to six feet behind the suspect. Batanero was yelling at the suspect, "Let me see your hands, pull your hands out of your pockets!" Ramirez said the suspect paused several feet from the entrance of the Bascoy Medical Building (4560 Cesar Chavez Boulevard) and turned slightly, about a quarter turn, until he was facing north. The suspect then withdrew his right hand from his jacket pocket, raised it slightly and responded, "Why, what did I do, I didn't do nothing." The suspect then turned his back to the deputies, repositioned his right hand out of their view near his front waistband area, and walked several more steps until he was adjacent the glass entrance door of the medical building. Ramirez said that after following the suspect for several steps he suddenly remembered that the other male Hispanic, whom they had observed talking on the telephone, was potentially a second suspect and was also possibly armed. Afraid the second suspect was coming up behind them, Ramirez took a couple steps backward to obtain a better view of the area near the telephone.

Deputy Ramirez said that as he glanced back toward the telephone trying to locate the second Hispanic male, he heard the sound of a single gunshot. Ramirez said that at the time he was unsure who had fired the shot. When he turned back toward Suspect Gonzales, he saw him leaning against the glass door of the medical building with both hands at waist level, out of view. He said Batanero was in a crouched position approximately six feet from the suspect with his gun pointed at the suspect yelling, "Put your hands up, put your hands up!"

The incident was documented in a first report prepared by Deputy [redacted] who interviewed both Deputy Ramirez and Deputy Batanero. (Refer to EXHIBIT A). Batanero advised [redacted] that after Suspect Gonzales had stopped walking away from them, he and Ramirez closed to within approximately five feet. Suddenly, in a quick, jerky movement, Suspect Gonzales turned his upper torso back toward both deputies, while drawing a handgun with his right hand from a holster which he was holding in his left hand. Batanero said he fired one round from his duty weapon in an attempt to stop the suspect. He said he was unsure initially if his shot had struck the suspect, but the suspect turned away and yelled, "You shot me!"

> IAB NOTE: Deputy Batanero's shot struck Suspect Gonzales in the upper portion of the right arm.

At this point Suspect Gonzales entered the door of the medical building, which for unknown reasons was unlocked, and walked down the main corridor for approximately 26 feet until he reached an alcove/waiting area located on the west side of the corridor. (Refer to EXHIBITS D & H). The suspect entered the alcove and disappeared from the deputies' view. Both deputies entered the building and advanced to a position at the edge of the alcove. From this position they could again see the suspect, who now standing at the west most end of the alcove, adjacent to a trash can, with his back to them.

In the report Deputy Batanero states that while Suspect Gonzales was standing near the trash can, he observed him lean down and drop the handgun into the trash receptacle. Batanero said he then advised Deputy Ramirez of what he had seen.

Deputy Ramirez said Suspect Gonzales paced back and forth for a few seconds with his back to the deputies, before suddenly turning, and advancing toward the deputies.

As Gonzales advanced he was moving his arms and waving his hands .

As Suspect Gonzales retraced his path and advanced on Batanero and Ramirez, both deputies backed out of the building ordering the suspect to get on the floor numerous times.

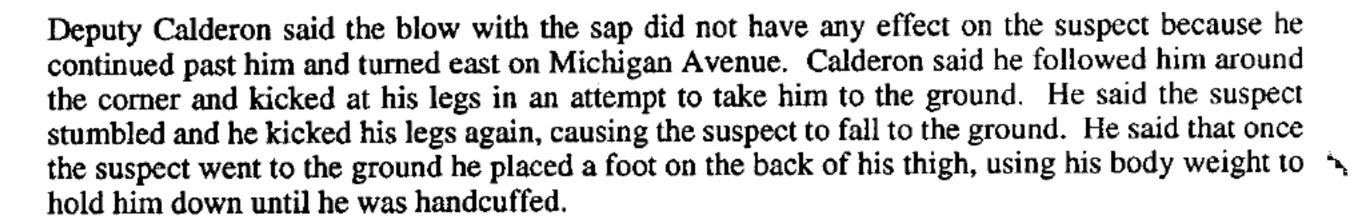
> IAB NOTE: In the background of the audio tape received from SCC, Deputy Batanero can be heard yelling at the suspect to get on the floor while Deputy Ramirez was requesting assistance.

When Suspect Gonzales reached a point near the front door of the medical building the deputies made two attempts to restrain and handcuff him. Because Gonzales was already bleeding profusely from his wound, the deputies were unable to maintain any type of grip on his arms and he succeeded in escaping.

Suspect Gonzales ran east on the south sidewalk of Cesar Chavez Avenue until he reached McDonnell Avenue where he turned right (south), continuing his flight on the west sidewalk until he was pushed down from the rear by Deputy Ramirez, approximately 200 feet. (Refer to Diagrams and EXHIBIT I). Ramirez was unable to maintain control of the suspect and Gonzales got to his feet, shedding his shirt and jacket, and ran diagonally across McDonnell Avenue to the east sidewalk. Before reaching the east sidewalk the suspect was again tripped up and taken to the ground, but again the deputies were unable to control the suspect long enough to apply handcuffs. The suspect then fled south in the direction of Michigan Avenue. Just before he reached Michigan Avenue, Deputy Batanero, who had driven around the suspect in the radio car, intercepted the suspect and sprayed him in the face with Oleoresin Capsicum Spray. The spray had little or no effect and the suspect continued south on McDonnell Avenue to Michigan Avenue where he was met by Deputies Calderon and Zumwalt, East Los Angeles Station detective unit #802.

Deputy Calderon said he and Deputy Zumwalt responded to Cesar Chavez Avenue and McDonnell Avenue in response to Deputy Ramirez' request for assistance. Calderon said that when he arrived at the intersection he saw Batanero and Ramirez' radio car on McDonnell Avenue about mid block between Cesar Chavez Avenue and Michigan Avenue. He said in the time it took to drive to the end of the block, he saw Batanero and Ramirez grapple with the suspect twice and spray him once with Oleoresin Capsicum Spray. The deputies' efforts appeared to have very little effect on slowing the suspect.

Deputy Calderon said that when he and Deputy Zumwalt exited their car at Michigan Avenue, the suspect was running toward them with the two deputies in pursuit close behind, yelling at him to stop and get on the ground. Calderon said everyone was covered with blood, especially Deputy Ramirez, whom he thought was possibly seriously injured. (Refer to EXHIBIT J). He said that when the suspect was about twelve to fourteen feet away he yelled at him stop and get on the ground. He said that at the same time he was yelling at the suspect he was holding his left hand out in a "straight arm" fashion, gesturing at the suspect to stop. He said the suspect closed the distance and knocked his arm out of the way. He said he reacted by withdrawing his sap from his right hip pocket with his right hand, which had previously been on his holstered gun, and struck the suspect once near the right temple or jaw line.



Deputy Calderon said the blow with the sap did not have any effect on the suspect because he continued past him and turned east on Michigan Avenue. Calderon said he followed him around the corner and kicked at his legs in an attempt to take him to the ground. He said the suspect stumbled and he kicked his legs again, causing the suspect to fall to the ground. He said that once the suspect went to the ground he placed a foot on the back of his thigh, using his body weight to hold him down until he was handcuffed.

Deputy Zumwalt's account of the incident varied from Calderon's only in that he stated that prior to the suspect being handcuffed he was sprayed again with Oleoresin Capsicum Spray by an unknown assisting deputy.

Suspect Gonzales was transported to Santa Marta Hospital, 319 North Humphreys Avenue, where he was treated by Doctor Jorge Diaz.

Dr. Diaz stated that he treated Gonzales for a single, through and through, gunshot wound from a medium caliber bullet (38 caliber, 9 millimeter) to the right arm. Dr. Diaz said the entry wound was in the inner aspect of the proximal arm and the exit wound was in the inner aspect of the mid forearm. There was no damage to the bone or nerves. (Refer to EXHIBIT K).

Dr. Diaz stated that Gonzales also had abrasions on both knees and complained of pain on the right side of the scalp, although there were no visual injuries to the head.

Suspect Frank Gonzales was interviewed at Santa Marta Hospital. Gonzales said that he had been drinking heavily, three six packs of beer, and was talking to a friend [redacted] at the telephone on the corner of Cesar Chavez Avenue and McDonnell Avenue when the deputies drove up and exited their radio car with guns drawn. He said turned, and was walking away from the deputies with his hands in his jacket pockets, when he was shot in the back.

> IAB NOTE: Gonzales described his jacket as having pockets at waist level. This would mean that his arms would have to have been bent at the elbow at an angle of 90 degrees or more if his hands were actually in the pockets. In this position the entry and exit wounds to his right arm would have both been in the upper arm. Instead, the wounds are such that the trajectory of the bullet would indicate the arm was at least partially extended.

[redacted] and [redacted] were standing together outside the American Legion Hall, located at 4615 Cesar Chavez Avenue (Approximately 93 feet east of the site of the shooting) when they saw the radio car turn south on McDonnell Avenue and illuminate the two males at the telephone booth.

[redacted] said the radio car stopped just south of Cesar Chavez Avenue and both deputies exited the car. As the deputies got out of the car, one of the males at the telephone began walking west along the sidewalk, followed by the deputies. [redacted] said the deputies drew their weapons, and as they did, the suspect began doing something with his hands. He said deputies and the suspect moved into an area which was partially obscured from his view. While partially hidden from view he observed the deputies struggling with the suspect and then heard a loud pop. He said he and [redacted] immediately went inside the bar. When he returned outside a few seconds later he saw the suspect lying on the sidewalk near the entrance to the medical building.

[redacted] said one of the deputies bent over to assist the suspect and the suspect got to his feet and ran, running south on McDonnell Avenue and out of view.

[redacted] said that when the radio car stopped on McDonnell Avenue the passenger deputy exited the car with his weapon drawn. [redacted] said that as the deputy exited the car, one of the males standing near the telephone began to back away with his hands raised above his head. He said the deputy followed the suspect until he disappeared into the doorway of the medical building. [redacted] said that when the deputy reached the doorway he saw a flash of light and heard a pop. He said he immediately ran inside the bar and when he returned the suspect had already fled.

[redacted] said he was inside the American Legion Hall when [redacted] ran inside and advised that the police had just shot someone. [redacted] said he ran outside just in time to see the suspect escape from one of the deputies and flee south on McDonnell Avenue. He said he went to his car and drove to Michigan Avenue, thinking he could cut off the suspect's path of escape. He said that when he reached Michigan Avenue and McDonnell Avenue he saw a large number of radio cars parked at the intersection and the suspect lying on the ground handcuffed

Following the incident, the suspect's weapon, a fully loaded.25 caliber Raven semi-automatic handgun, was recovered in a holster in the trash receptacle in the alcove/waiting room of the medical building. (Refer to EXHIBIT L).